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REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

HUMAN RIGHTS AND THE ENVIRONMENT

Progress report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur, in accordance with Sub-Commission resolution 1991/24

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CHAPTER IV - UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

111. The United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro (Brazil) from 3-14 June 1992, was a major event some of the results of which are worth noting as pertinent to this study.

A. Rio Declaration on Environment and Development

112. The Earth Summit solemnly adopted a declaration of 27 principles with the goal, as stated in the preamble, of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and peoples. The Conference, recognizing the integral and interdependent nature of the Earth, the home of mankind, adopted the Rio Declaration on Environment and Development, which, while not a legally binding international instrument, nevertheless represents a moral undertaking to observe the principles embodied in it. The Special Rapporteur wishes to refer to a number of those principles which appear to be closely related to the scope of this study.

"Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

[...]

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 11

States shall enact effective environmental legislation. [...]

[...]

Principle 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

[...]

Principle 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

[...]

Principle 22

Indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

Principle 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

Principle 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

Principle 25

Peace, development and environmental protection are interdependent and indivisible."

B. The Agenda 21 programme

113. The Conference adopted a comprehensive programme of action known as "Agenda 21" in the form of a plan for implementation in the various areas relating to sustainable development of the Earth. As pointed out by the Conference, the programme areas that constitute Agenda 21 are described in terms of the basis for action, objectives, activities and means of implementation. Agenda 21 is a dynamic programme. It will be carried out by the various actors according to the different situations, capacities and priorities of countries and regions in full respect of all the principles contained in the Rio Declaration on Environment and Development. It could

evolve over time in the light of changing needs and circumstances. This process marks the beginning of a new global partnership for sustainable development.

114. The programme of action set out in the 800 or so pages adopted by the Conference cannot be reproduced here. Suffice it to say that it covers such diverse areas as international cooperation to accelerate sustainable development in developing countries and related domestic policies; combating poverty; changing consumption patterns; protection and promotion of human health conditions; promoting a sustainable pattern of human settlements; integration of environment and development in decision-making; protecting the atmosphere; combating deforestation; combating desertification; protection of the ocean and all kinds of seas; protection of freshwater resources; environmentally sound management of toxic chemicals and hazardous and radioactive wastes, including the prevention of illegal international traffic in such wastes; strengthening the role of major groups such as women, youth, indigenous peoples and non-governmental organizations.

C. Financial resources and mechanisms

115. The Conference recognized that economic growth, social development and poverty eradication were the first and overriding priorities in developing countries and were essential to meeting national and global sustainability objectives. In the light of the global benefits to be realized by the implementation of Agenda 21 as a whole, providing developing countries with effective means, inter alia, financial resources and technology, without which it would be difficult for them to fully implement their commitments, would serve the common interests of developed and developing countries and of humankind in general, including future generations.

116. International cooperation for sustainable development should also be strengthened in order to support and complement the efforts of developing countries, particularly the least developed countries. All countries should assess how to translate Agenda 21 into national policies and programmes through a process that will integrate environment and development considerations. National and local priorities should be established by means that included public participation and community involvement, promoting equal opportunity for men and women.

117. For an evolving partnership among all countries of the world, including in particular between developed and developing countries, sustainable development strategies and enhanced and predictable levels of funding in support of longer term objectives were required. For that purpose, developing countries should articulate their own priority actions and needs for support and developed countries should commit themselves to addressing those priorities. In that respect, consultative groups and round tables and other nationally based mechanisms could play a facilitative role.

118. The implementation of the huge sustainable development programmes of Agenda 21 would require providing developing countries with substantial new and additional financial resources. Grants or concessional financing should be provided according to sound and equitable criteria and indicators. The

progressive implementation of Agenda 21 should be matched by the provision of such necessary financial resources. The initial phase would be accelerated by substantial early commitments of concessional funding.

119. With regard to means of implementation, the Conference agreed that in general the financing for the implementation of Agenda 21 would come from a country's own public and private sectors. For developing countries, particularly the least developed countries, overseas development aid was a main source of external funding, and substantial new and additional funding for sustainable development and implementation of Agenda 21 would be required. Developed countries reaffirmed their commitments to reach the United Nations target of 0.7 per cent of GNP for overseas development aid, as soon as possible and to ensure a prompt and effective implementation of Agenda 21. Some countries agreed or had agreed to reach the target by the year 2000. It was decided that the Commission on Sustainable Development would regularly review and monitor progress towards that target. That review process should systematically combine the monitoring of implementation of Agenda 21 with a review of the financial resources available.

120. The Conference also agreed that funding for agenda 21 and other outcomes of the United Nations Conference on Environment and Development should be provided in a way which maximized the availability of new and additional resources and which used all available funding sources and mechanisms. Those included, among others: multilateral development banks and funds (International Development Association); regional and subregional development banks; the Global Environmental Facility, managed jointly by the World Bank, United Nations Development Programme and United Nations Environment Programme; the relevant specialized agencies, other United Nations bodies and other international organizations; multilateral institutions for capacity-building and technical cooperation; bilateral assistance programmes; debt relief; private funding; investment; and innovative financing.

121. With regard to the specific issue of debt relief, the Conference recognized that it was important to achieve durable solutions to the debt problems of low and middle income developing countries in order to provide them with the needed means for sustainable development. Measures to address the continuing debt problems of low and middle income countries should be kept under review. All creditors in the Paris Club should promptly implement the agreement of December 1991 to provide debt relief for the poorest heavily indebted countries pursuing structural adjustment; debt relief measures should be kept under review so as to address the continuing difficulties of those countries.

122. The Conference underlined that a supportive international and domestic economic climate conducive to sustained economic growth and development was important, particularly for developing countries, in order to achieve sustainability. The Secretariat of the Conference estimated that the average annual costs (1993-2000) of implementing the activities in Agenda 21 in developing countries to be over $600 billion including about $125 billion on grant or concessional terms from the international community.

D. Commission on sustainable development

123. In order to ensure the effective follow-up of the Conference, as well as to enhance international cooperation and rationalize the intergovernmental decision-making capacity for the integration of environment and development issues and to examine the progress of the implementation of Agenda 21 at the national, regional and international levels, a high-level commission on sustainable development should be established in accordance with Article 68 of the Charter of the United Nations. This commission would report to the Economic and Social Council in the context of the Council's role under the Charter vis-à-vis the General Assembly. It would consist of representatives of States elected as members with due regard to equitable geographical distribution. Representatives of non-member States of the commission would have observer status. The commission should provide for the active involvement of organs, programmes and organizations of the United Nations system, international financial institutions and other relevant intergovernmental organizations, and encourage the participation of non-governmental organizations, including industry and the business and scientific communities. The first meeting of the commission should be convened no later than 1993. The General Assembly, at its forty-seventh session, should determine specific organizational modalities for the work of this commission, such as its membership, its relationship with other intergovernmental United Nations bodies dealing with matters related to environment and development, and the frequency, duration and venue of its meetings.